

**OCT 15 2003**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON**  
**U.S. COURT OF APPEALS**

ROBERT L. LOEH,

Petitioner - Appellant,

v.

TEOFILO WESTON,

Respondent - Appellee.

No. 03-55712

D.C. No. CV-03-00570-TJW

MEMORANDUM\*

Appeal from the United States District Court  
for the Southern District of California  
Thomas J. Whelan, District Judge, Presiding

Submitted October 10, 2003\*\*  
Pasadena, California

Before: REINHARDT, FERNANDEZ, and RAWLINSON, Circuit Judges.

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

The district court dismissed the Petitioner's complaint *sua sponte* under 28 U.S.C. § 1915 A(b)(1) on the ground that his claim was duplicative, or frivolous. We review a *sua sponte* dismissal for abuse of discretion. See Martin v. Sias, 88 F.3d 774, 775 (9th Cir. 1996). The district court did not abuse its discretion by taking notice of the Petitioner's similar civil actions pending against the same defendant and dismissing this particular complaint without prejudice to the Petitioner's pending complaints. See Cato v. United States, 70 F. 3d 1103, 1105 n.2 (9th Cir. 1995).

**AFFIRMED.**